

IN THE UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF MASSACHUSETTS

Case No. 05-40112-FDS

MORTGAGE ELECTRONIC REGISTRATION)
SYSTEMS, INC.)
v. Plaintiff)
THE ESTATE OF TIMOTHY BARLOW, LORI A.)
BARLOW, THE COMMONWEALTH OF)
MASSACHUSETTS, DEPT. OF REVENUE, and)
UNITED STATES OF AMERICA,)
Defendants.)

(Formerly Case No. WO CV 2005-00794
Superior Court, Worcester County)

05-40112-FDS

**UNITED STATES OF AMERICA'S NOTICE OF REMOVAL
TO THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

TO: David J. Rhein, Esquire
David M. Rosen, Esquire
Harmon Law Offices, P.C.
P.O. Box 610389
Newton Highlands, Mass. 02461-0389

Eileen Ryan McAuliffe, Esquire
Commonwealth of Massachusetts
Department of Revenue
Post Office Box 9565
Boston, Massachusetts 02114-9565

PLEASE TAKE NOTICE that the action styled *Mortgage Electronic Registration Systems, Inc. v. the Estate of Timothy Barlow, Lori A. Barlow, the Commonwealth of Massachusetts, Department of Revenue, and United States of America*, Case No. WO CV 2005-00794, now pending in the Superior Court, Worcester County, Massachusetts, is removed to the United States District Court for the District of Massachusetts, by and on behalf of the United States of America. The action is removable pursuant to the provisions of 28 U.S.C. § 1442(a)(1) as it is brought against the United States, and 28 U.S.C. § 1444, as it appears to be an action in interpleader brought against the United States under the provisions of 28 U.S.C. § 2410.

Photocopies of the summons, and complaint, together with attachments, constituting all non-duplicative process and pleadings received by the received by the trial attorney for the United States to the date of this notice, are attached as required by 28 U.S.C. § 1446(a).

No prior removal of the action has been attempted.

This notice of removal is filed in accordance with the procedures of 28 U.S.C. § 1446, and the removal of the action is timely under the provisions of 28 U.S.C. § 1446(b).

I hereby certify that a true copy of the above document was served upon (each party appearing *pro se* and) the attorney of record for each other party by mail on

BARBARA HEALY SMITH
United States Attorney's Office
One Courthouse Way
Suite 9200
Boston, Massachusetts 02210

MICHAEL J. SULLIVAN
United States Attorney

BARBARA HEALY SMITH
Assistant United States Attorney

Service List

David J. Rhein, Esquire
David M. Rosen, Esquire
Harmon Law Offices, P.C.
P.O. Box 610389
Newton Highlands, MA 02461-0389

Eileen Ryan McAuliffe, Esquire
Commonwealth of Massachusetts
Department of Revenue
Post Office Box 9565
Boston, MA 02114-9565

COMMONWEALTH OF MASSACHUSETTS

Worcester, ss.

Superior Court
Department of the Trial Court
of the Commonwealth
Civil Action

No.

)
)
)

Mortgage Electronic Registration Systems, Inc. Plaintiff(s))
v.)
The Estate of Timothy Barlow,)
Lori A. Barlow, The Commonwealth of)
Massachusetts, Department of)
Revenue, and the United States of Defendant(s))
America)

SUMMONS

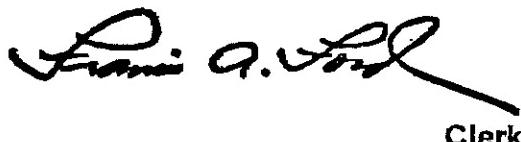
* To the above-named Defendant: The United States of America, c/o Internal Revenue Service, P.O. Box 9112, Stop 20800, JFK Federal Building, Boston, MA 02203

You are hereby summoned and required to serve upon David J. Rhein, Esq., Harmon Law Offices, P.C., plaintiff's attorney, whose address is P.O. Box 610389, Newton Highlands, MA 02461-0389, an answer to the complaint which is herewith served upon you, within 20 days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgement by default will be taken against you for the relief demanded in the complaint. You are also required to file your answer to the complaint in the SUPERIOR COURT Department of the Trial Court at WORCESTER either before service upon plaintiff's attorney or within a reasonable time thereafter.

Unless otherwise provided by Rule 13 (a), your answer must state as a counter-claim any claim which you may have against the plaintiff which arises out of the transaction of occurrence that is the subject matter of the plaintiff's claim or you will thereafter be barred from making such claim in any other action.

Barbara J. Rouse

Witness, [REDACTED] Esquire, at Worcester, the 8th.....
day of June.....in the year of our Lord two thousand and
Five.....



Clerk

NOTES:

1. This summons is issued pursuant to Rule 4 of the Massachusetts Rules of Civil Procedure.
2. When more than one defendant is involved, the names of all defendants should appear in the caption. If a separate summons is used for each defendant, each should be addressed to that particular defendant.

PLEASE CIRCLE TYPE OF ACTION INVOLVED: TORT — MOTOR VEHICLE TORT —
CONTRACT/EQUITABLE RELIEF — CH. 93A — MEDICAL MALPRACTICE — OTHER.

*

NOTICE TO DEFENDANT: You need not appear personally in court to answer the complaint, but if you claim to have a defense, either you or your attorney must serve a copy of your written answer within 20 days as specified herein AND also file the original in the Clerk's Office, Superior Court, Room 21.

COMMONWEALTH OF MASSACHUSETTS**WORCESTER, ss****SUPERIOR COURT DEPARTMENT
OF THE TRIAL COURT
CIVIL ACTION NO. WOCV2005-00794****MORTGAGE ELECTRONIC
REGISTRATION SYSTEMS, INC.,****Plaintiff,****v.****THE ESTATE OF TIMOTHY BARLOW,
LORI A. BARLOW,
THE COMMONWEALTH OF
MASSACHUSETTS DEPARTMENT OF
REVENUE, AND
UNITED STATES OF AMERICA,****Defendants.****COMPLAINT IN INTERPLEADER
(Mortgage Foreclosure Surplus Proceeds)****INTRODUCTION**

This action is being brought after a foreclosure sale on a property located at 9 Trinity Drive, Milford, Massachusetts. Mortgage Electronic Registration Systems, Inc., the foreclosing mortgagee, (hereinafter referred to as "MERS") is currently holding surplus funds that it would like to pay into Court. MERS further requests that it be discharged from any further obligation involving this matter.

PARTIES

In the above action, MERS respectfully represents:

1. The Plaintiff, MERS, is a Corporation with a mailing address of P.O. Box 2026, Flint, Michigan 48501-2026.
2. The Defendant, the Estate of Timothy Barlow, has a last known address of 71 Godfrey Lane, Milford, Massachusetts 01757.
3. The Defendant, Lori Barlow, is, upon information and belief, an individual with a last known address of 71 Godfrey Lane, Milford, Massachusetts 01757.
4. The Defendant, The Commonwealth of Massachusetts, Department of Revenue, is upon information and belief, a state agency with a last known address of c/o Eileen Ryan McAuliffe, Counsel for the Commissioner, Litigation Bureau, 7th Floor, 100 Cambridge Street, P.O. Box 9565, Boston, MA 02114-9565.
5. The Defendant, the United States of America, c/o Internal Revenue Service who is upon information and belief a federal agency c/o, Brenda Hyde, Special Procedures, P.O. Box 9112, Stop 20800, J.F.K. Post Office, Boston, MA 02203.

FACTS

6. The Plaintiff, MERS, was the holder by assignment of a first mortgage given by Timothy Barlow and Lori A. Barlow to Milford Savings Bank, dated April 9, 1986 and recorded April 11, 1986 at 1:12 p.m. in Book 9349 at Page 211 in the Worcester County (Worcester District) Registry of Deeds, securing the real estate located at 9 Trinity Drive, Milford, Massachusetts 01757 ("the property").

7. On February 26 2004, MERS foreclosed on the mortgaged property by public auction pursuant to the statutory Power of Sale.
8. The mortgaged property was sold to a third party for \$199,000.00.
9. After satisfaction of the indebtedness to the Plaintiff, including costs of foreclosure and sale, accrued interest and late charges in the aggregate sum of \$43,880.17, there is surplus now held by the Plaintiff in the amount of \$155,119.83. See Exhibit "A" attached hereto.
10. The following persons and entities appear of record to be all of the persons or entities having an interest in said funds held by Litton, to wit:
 - (a) Defendant, the Estate of Timothy Barlow, is the former holder of the equity of redemption.
 - (b) The Defendant, Lori A. Barlow, is the former holder of the equity of redemption.
 - (c) The Defendant, The Commonwealth of Massachusetts, Department of Revenue, may have a claim to a portion of the surplus funds due to the Estate of Timothy Barlow.
 - (d) The Defendant, United States of America, may have a claim to a portion of the surplus funds due to the Estate of Timothy Barlow.

WHEREFORE, the Plaintiff, Mortgage Electronic Registration Systems, Inc., prays
that:

1. The said Defendants be ordered to appear and present their claims, if any, to the surplus funds;
2. That the Plaintiff be allowed its costs, expenses and attorney's fees in this Interpleader Action;
3. That the Plaintiff be permitted to pay all surplus funds held by it in the amount of \$155,119.83, less its fees and costs incurred in this Interpleader Action, into this Court;
4. That the rights of the Defendants herein named be determined by this Court as to the surplus funds paid into the Court;
5. That this action be discontinued and dismissed as to the Plaintiff, it being merely a stakeholder and having no interest in said funds; and
6. For such other and further relief as this Court deems just and proper.

MORTGAGE ELECTRONIC
REGISTRATION SYSTEMS, INC.,
By its Attorney,

David J. Rhein
David J. Rhein
BBO #: 635175
David M. Rosen
BBO#: 552866
Harmon Law Offices, P.C.
P.O. Box 610389
Newton Highlands, MA 02461-0389
(617) 558-0500

May 3 , 2005

EXHIBIT "A"

SUCCESSFUL BID: \$199,000.00

FUNDS OWED TO
MORTGAGE ELECTRONIC
REGISTRATION SYSTEMS, INC.: \$ 43,880.17

SURPLUS FUNDS: \$155,119.83

CIVIL ACTION COVER SHEET		DOCKET NO.(S)	Trial Court of Massachusetts Superior Court Department County: Worcester
PLAINTIFF(S) Mortgage Electronic Registration Systems, Inc.		DEFENDANT(S) The Estate of Timothy Barlow, Lori Barlow, The Commonwealth of Massachusetts Department of Revenue, United States of America	
ATTORNEY, FIRM NAME, ADDRESS AND TELEPHONE David J. Rhein, Harmon Law Offices, P.C. PO Box 610389, Newton Highlands, MA 02461-0389 Board of Bar Overseers number: 635175 (617) 558-0500		ATTORNEY (If known)	

Origin code and track designation

Place an x in one box only:

1. F01 Original Complaint
 2. F02 Removal to Sup.Ct. C.231,s.104 (Before trial) (F)
 3. F03 Retransfer to Sup.Ct. C.231,s.102C (X)

4. F04 District Court Appeal c.231, s. 97 & 104 (After trial) (X)
 5. F05 Reactivated after rescript; relief from judgment/Order (Mass.R.Civ.P. 60) (X)
 6. E10 Summary Process Appeal (X)

TYPE OF ACTION AND TRACK DESIGNATION (See reverse side)
 CODE NO. TYPE OF ACTION (specify) TRACK IS THIS A JURY CASE?

E99 Interpleader (X) () Yes (X) No

The following is a full, itemized and detailed statement of the facts on which plaintiff relies to determine money damages. For this form, disregard double or treble damage claims; indicate single damages only.

TORT CLAIMS

(Attach additional sheets as necessary)

Documented medical expenses to date:

1. Total hospital expenses	\$
2. Total Doctor expenses	\$
3. Total chiropractic expenses	\$
4. Total physical therapy expenses	\$
5. Total other expenses (describe)	\$
Subtotal \$	

Documented lost wages and compensation to date

Documented property damages to date

Reasonably anticipated future medical and hospital expenses

Reasonably anticipated lost wages

Other documented items of damages (describe)

Brief description of plaintiff's injury, including nature and extent of injury (describe)

\$
TOTAL \$

CONTRACT CLAIMS

(Attach additional sheets as necessary)

Provide a detailed description of claim(s): The Plaintiff is holding surplus funds that it would like to pay into Court and be discharged from any further obligation involving this matter.

TOTAL \$ 155,119.83

PLEASE IDENTIFY, BY CASE NUMBER, NAME AND COUNTY, ANY RELATED ACTION PENDING IN THE SUPERIOR COURT DEPARTMENT

I hereby certify that I have complied with the requirements of Rule 5 of the Supreme Judicial Court Uniform Rules on Dispute Resolution (SJC Rule 1:18) requiring that I provide my clients with information about court-connected dispute resolution services and discuss with them the advantages and disadvantages of the various methods."

Signature of Attorney of Record D.J. NeiDATE: 5-3-05

Case Summary
Civil Docket

WOCV2005-00794

Mortgage Electronic Registration Systems Inc v Barlow Estate of et al

Filed Date	05/04/2005	Status	Needs review for service (acnreserv)	
Status Date	05/04/2005	Session	B - Civil B (18 Worcester)	
Origin	1	Case Type	E99 - Miscellaneous	
Lead Case		Track	X	
Service	08/02/2005	Answer	10/01/2005	Rule 12/19/20
Rule 15		Discovery		Rule 56
Final PTC	10/31/2005	Disposition	11/30/2005	Jury Trial No

Plaintiff
 Mortgage Electronic Registration Systems Inc
 PO Box 2026
 Flint, MI 48501-2026
 Active 05/04/2005

Private Counsel 635175
 David J Rhein
 Harmon Law Offices (Mark P)
 150 California Street
 PO Box 610389
 Newton, MA 02458-0389
 Phone: 617-558-0500
 Fax: 617-244-7304
 Active 05/04/2005 Notify

Private Counsel 552866
 David M Rosen
 Harmon Law Offices (Mark P)
 PO Box 610389
 150 California Street
 Newton Highlands, MA 02461-0389
 Phone: 617-558-0500
 Fax: 617-244-7304
 Active 05/04/2005 Notify

Defendant
 Timothy Barlow Estate of
 71 Godfrey Lane
 Milford, MA 01757
 Service pending 05/04/2005

Defendant
 Lori Barlow
 71 Godfrey Lane
 Milford, MA 01757
 Service pending 05/04/2005

S-26040305

Skett

Commonwealth of Massachusetts

WORCESTER SUPERIOR COURT

Case Summary

Civil Docket

02:07 PM

WOCV2005-00794

Mortgage Electronic Registration Systems Inc v Barlow Estate of et al

Defendant

Commonwealth of Massachusetts Department of Revenue
100 Cambridge Street
PO Box 9565
Boston, MA 02114-9565
Service pending 05/04/2005

Defendant

United States of America
PO Box 9112
Stop 20800 JFK PO
Boston, MA 02203
Service pending 05/04/2005

Date	Paper	Text
5/04/2005	1.0	Complaint & civil action cover sheet filed
5/04/2005		Origin 1, Type E99, Track X.

JS 44 (Rev. 11/04)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

MORTGAGE ELECTRONIC REGISTRATION SYSTEMS, INC.

(b) County of Residence of First Listed Plaintiff _____
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)

DEFENDANTS

THE ESTATE OF TIMOTHY BARLOW, LORI A. BARLOW, THE COMMONWEALTH OF MASSACHUSETTS, DEPT. OF REVENUE, AND U.S. OF AMERICA
County of Residence of First Listed Defendant Worcester

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- | | |
|---|---|
| <input type="checkbox"/> 1 U.S. Government Plaintiff | <input type="checkbox"/> 3 Federal Question (U.S. Government Not a Party) |
| <input checked="" type="checkbox"/> 2 U.S. Government Defendant | <input type="checkbox"/> 4 Diversity
(Indicate Citizenship of Parties in Item III) |

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)
(For Diversity Cases Only)

Citizen of This State	PTF	DEF	PTF	DEF
<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4
<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5
<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark
<input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/ Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	<input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g))
			FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	OTHER STATUTES <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes

V. ORIGIN

(Place an "X" in One Box Only)

- | | | | | | | |
|--|--|--|---|--|---|--|
| <input type="checkbox"/> 1 Original Proceeding | <input checked="" type="checkbox"/> 2 Removed from State Court | <input type="checkbox"/> 3 Remanded from Appellate Court | <input type="checkbox"/> 4 Reinstated or Reopened | <input type="checkbox"/> 5 Transferred from another district (specify) _____ | <input type="checkbox"/> 6 Multidistrict Litigation | <input type="checkbox"/> 7 Appeal to District Judge from Magistrate Judgment |
|--|--|--|---|--|---|--|

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

28 U.S.C., Secs. 1442(a)(1), 1444

VI. CAUSE OF ACTIONBrief description of cause:
Interpleader of surplus funds following mortgage foreclosure and sale of realty.**VII. REQUESTED IN COMPLAINT:** CHECK IF THIS IS A CLASS ACTION
UNDER F.R.C.P. 23**DEMAND \$**

CHECK YES only if demanded in complaint:

JURY DEMAND: Yes No**VIII. RELATED CASE(S) IF ANY**

(See instructions):

JUDGE

DOCKET NUMBER

DATE

07/01/2005

SIGNATURE OF ATTORNEY OF RECORD

*Donald C. Miller***FOR OFFICE USE ONLY**

RECEIPT #

AMOUNT

APPLYING JPF

JUDGE

MAG. JUDGE